

SEALED

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

13 MAR 20 PM 12: 20

OFFICE OF THE CLERK

UNITED STATES OF AMERICA,
Plaintiff,

VS.

TIMOTHY DeFOGGI

a/k/a

a/k/a

ZACKARY AUSTIN

a/k/a [REDACTED]

a/k/a

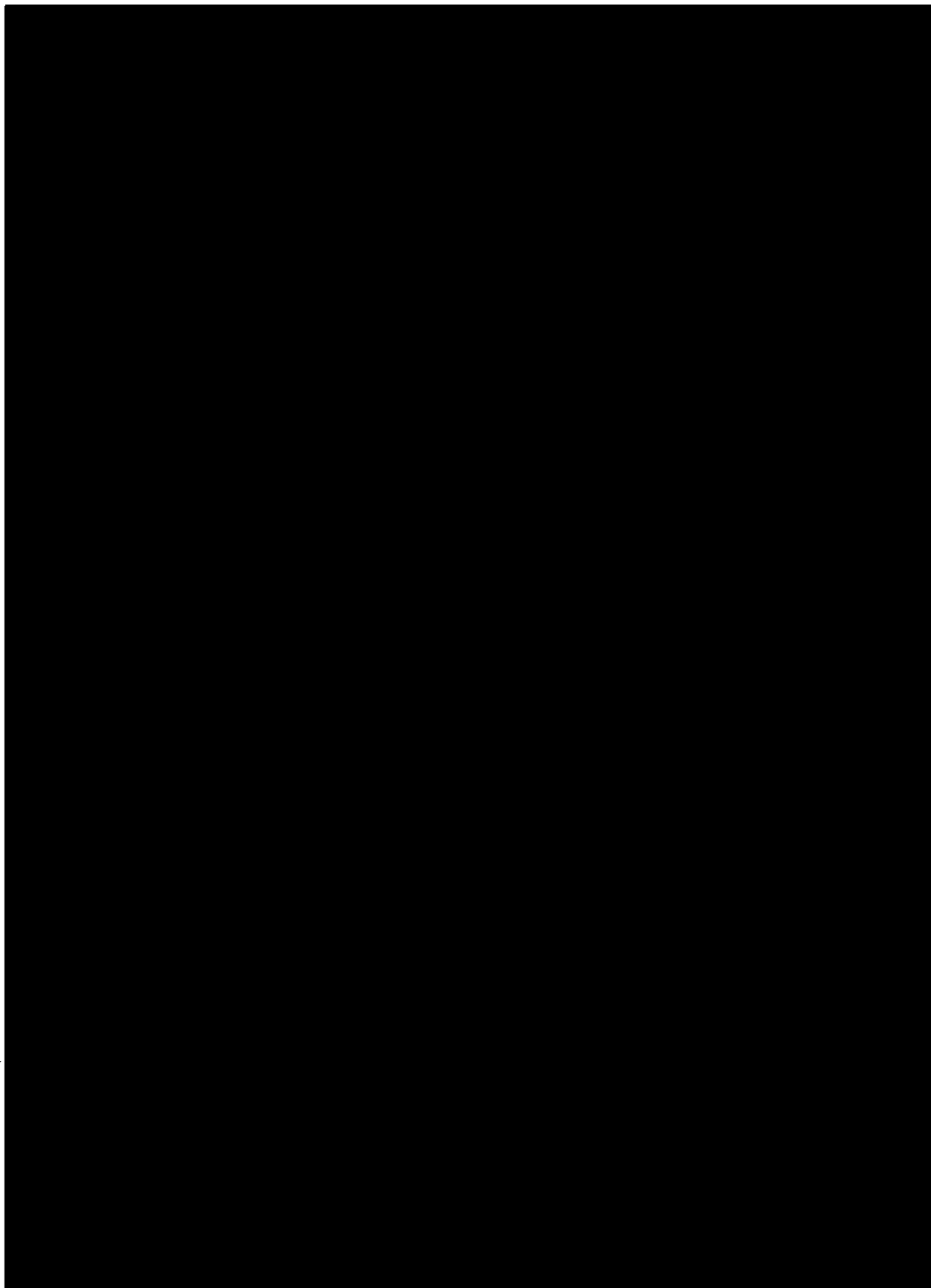
Defendants.

8:13CR 105
INDICTMENT
UNDER SEAL

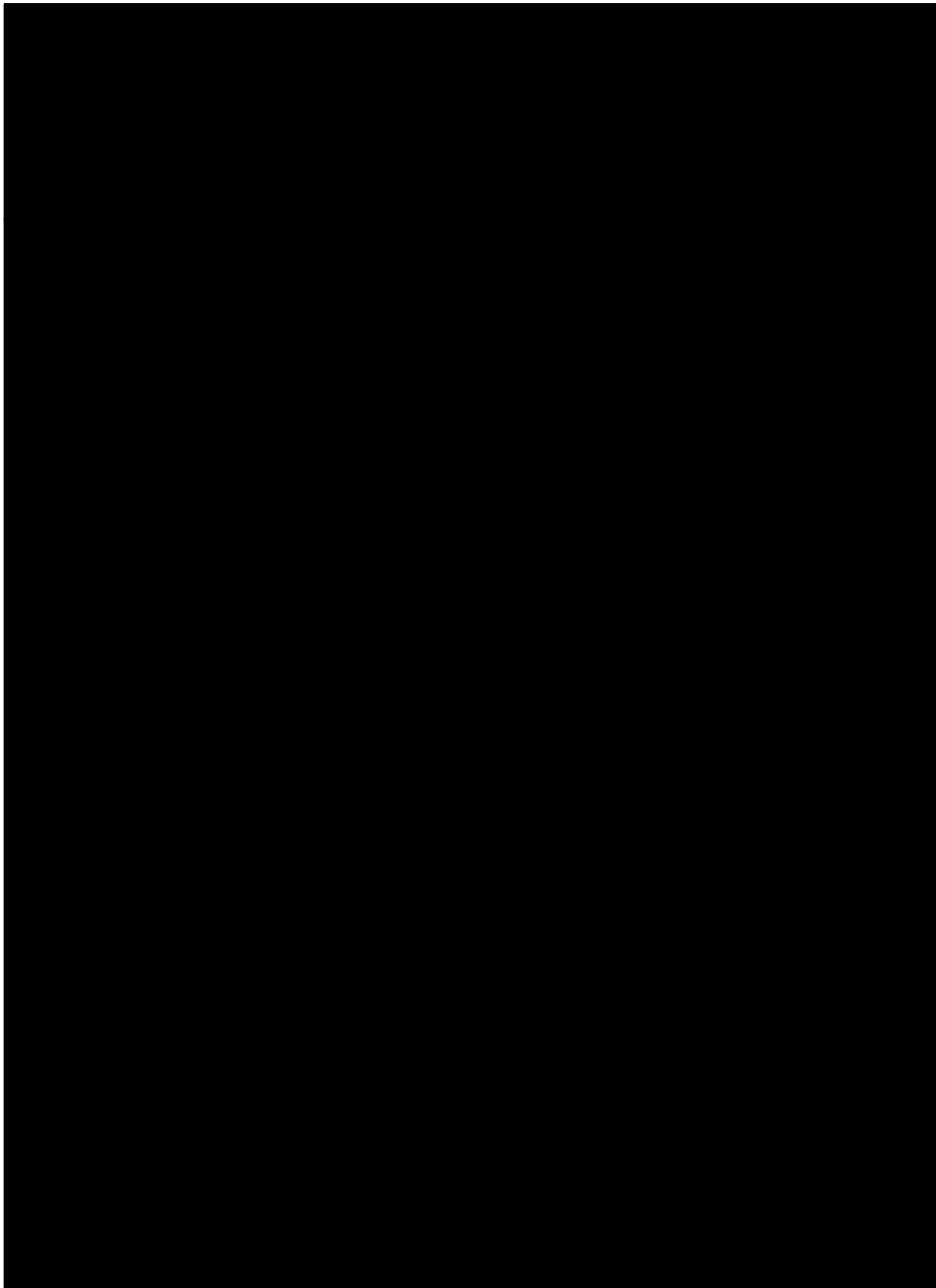
18 U.S.C. § 2252A(g)
18 U.S.C. §§ 2251(d)(1) and (e)
18 U.S.C. §§ 2252A(a)(2) and (b)(1)
18 U.S.C. § 2252A(a)(5)(b)

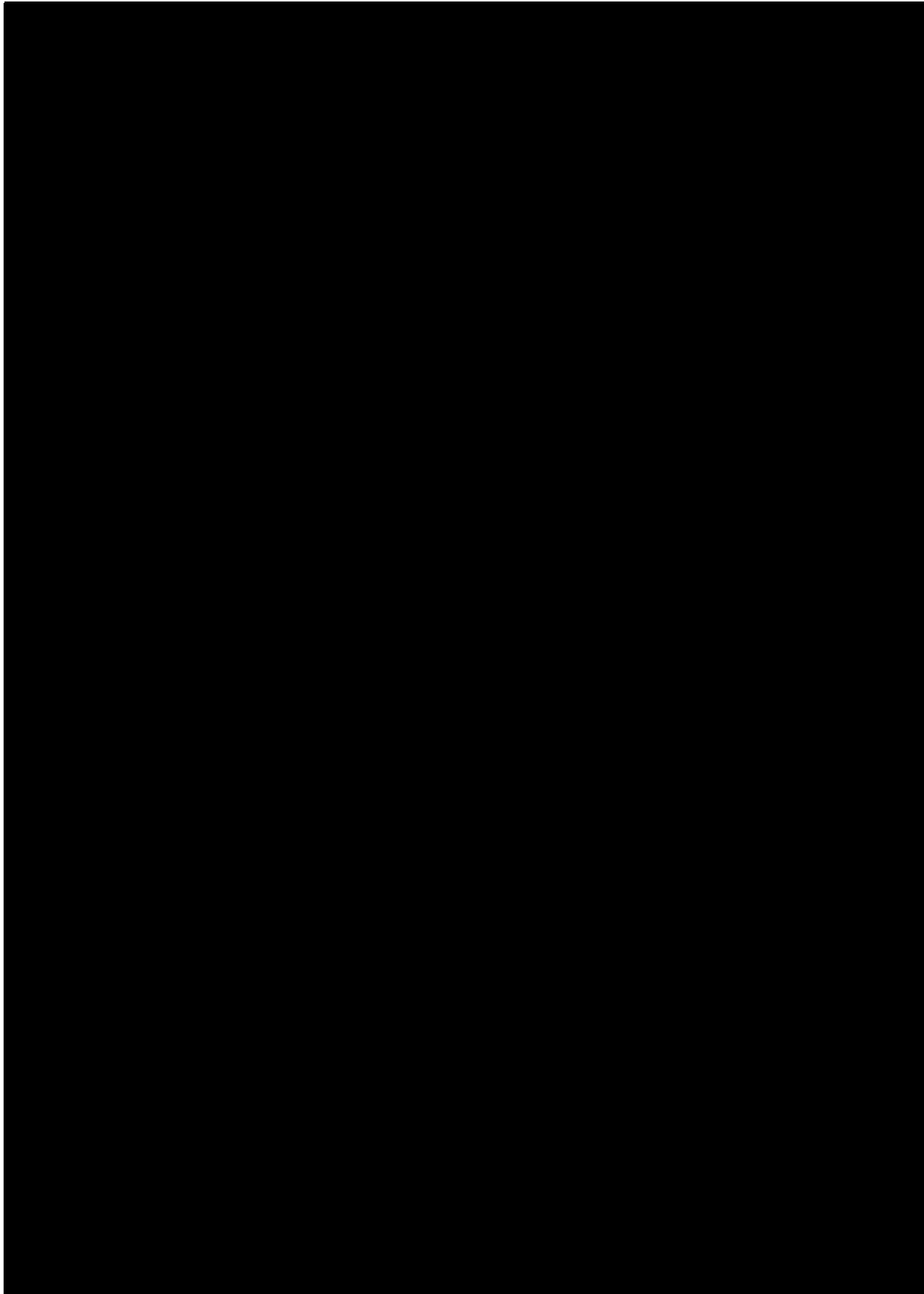
The Grand Jury charges:

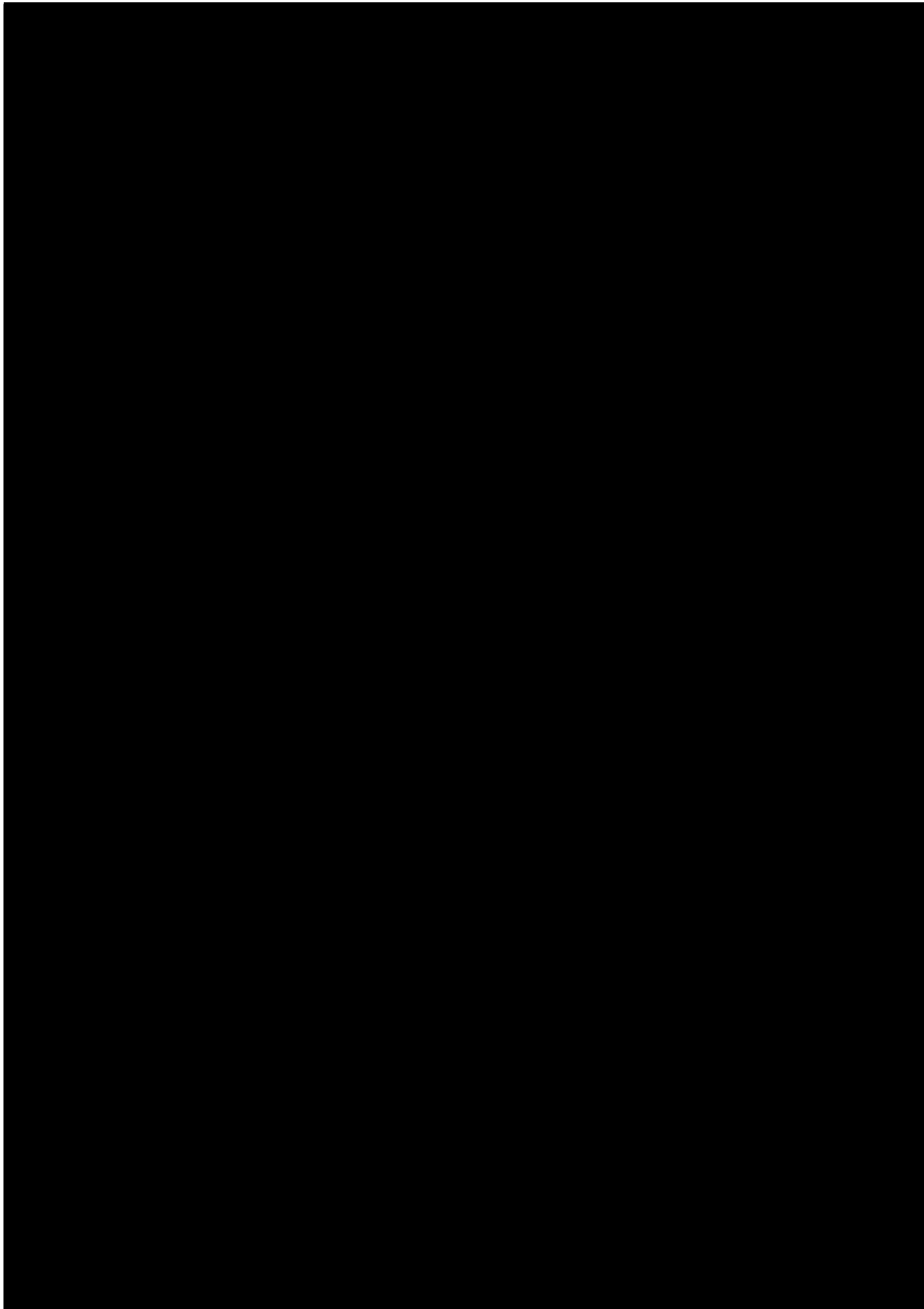
Exhibit 2











COUNT I

18. Paragraphs 1-17 of this Indictment are re-alleged and incorporated by reference as though set forth in full herein.

19. Between on or about March 2, 2012, and on or about December 8, 2012, in the District of Nebraska and elsewhere, TIMOTHY DeFOGGI a/k/a [REDACTED] a/k/a [REDACTED], and ZACKARY AUSTIN a/k/a [REDACTED] a/k/a [REDACTED], the defendants herein, and others known and unknown to the Grand Jury, did knowingly engage in a child exploitation enterprise, that is, TIMOTHY DeFOGGI a/k/a [REDACTED] a/k/a [REDACTED] and ZACKARY AUSTIN a/k/a [REDACTED] a/k/a [REDACTED] violated Chapter 110 of Title 18 of the United States Code, as a part of a series of felony violations constituting three or more separate incidents and involving more than one minor victim, which offenses are described in Counts IV - VII of this Indictment, incorporated herein, and committed those offenses in concert with three or more other persons.

In violation of Title 18, United States Code, Section 2252A(g).

COUNT II

20. Paragraphs 1-17 of this Indictment are re-alleged and incorporated by reference as though set forth in full herein.

21. Between on or about March 2, 2012, and on or about December 8, 2012, in the District of Nebraska and elsewhere, TIMOTHY DeFOGGI a/k/a [REDACTED] a/k/a [REDACTED]

██████████, and ZACKARY AUSTIN a/k/a ██████████ a/k/a ██████████, the defendants herein, and others known and unknown to the Grand Jury, did knowingly conspire to make, print, and publish, and cause to be made, printed, and published, any notice and advertisement seeking and offering to receive, exchange, buy, produce, display, distribute, and reproduce, any visual depiction, the production of which visual depiction involved the use of a minor engaging in sexually explicit conduct and such visual depiction was of such conduct; and participation in any act of sexually explicit conduct by and with any minor for the purpose of producing a visual depiction of such conduct; knowing and having reason to know that such notice or advertisement would be transported using any means or facility of interstate or foreign commerce and in or affecting interstate and foreign commerce by any means, including by computer, and such notice and advertisement was transported using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer.

In violation of Title 18, United States Code, Sections 2251(d)(1) and (e).

COUNT III

22. Paragraphs 1-17 of this Indictment are re-alleged and incorporated by reference as though set forth in full herein.

23. Between on or about March 2, 2012, and on or about December 8, 2012, in the District of Nebraska and elsewhere, TIMOTHY DeFOGGI a/k/a ██████████ a/k/a ██████████, and ZACKARY AUSTIN a/k/a ██████████ a/k/a ██████████, defendants herein, and others known and unknown to the Grand Jury, knowingly conspired to distribute any child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), that

has been shipped and transported in and affecting interstate and foreign commerce by any means, including by computer; and that has been shipped and transported using any means and facility of interstate or foreign commerce.

In violation of Title 18, United States Code, Sections 2252A(a)(2) and (b)(1).

COUNT IV

24. On or about November 21, 2012, in the District of Nebraska and elsewhere, TIMOTHY DeFOGGI a/k/a [REDACTED] a/k/a [REDACTED], and ZACKARY AUSTIN a/k/a [REDACTED] a/k/a [REDACTED], defendants herein, knowingly accessed with intent to view, a computer disk and any other material that contained an image of child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), that has been mailed, and shipped and transported using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

In violation of Title 18, United States Code, Section 2252A(a)(5)(B).

COUNT V

25. On or about November 26, 2012, in the District of Nebraska and elsewhere, TIMOTHY DeFOGGI a/k/a [REDACTED] a/k/a [REDACTED], and ZACKARY AUSTIN a/k/a [REDACTED] a/k/a [REDACTED], defendants herein, knowingly accessed with intent to view, a computer disk and any other material that contained an image of child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), that has been mailed, and shipped and transported using any means and facility of interstate and foreign commerce

and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

In violation of Title 18, United States Code, Section 2252A(a)(5)(B).

COUNT VI

26. On or about December 4, 2012, in the District of Nebraska and elsewhere, TIMOTHY DeFOGGI a/k/a [REDACTED] a/k/a [REDACTED], and ZACKARY AUSTIN a/k/a [REDACTED] a/k/a [REDACTED], defendants herein, knowingly accessed with intent to view, a computer disk and any other material that contained an image of child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), that has been mailed, and shipped and transported using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

In violation of Title 18, United States Code, Section 2252A(a)(5)(B).

COUNT VII

27. On or about December 8, 2012, in the District of Nebraska and elsewhere, TIMOTHY DeFOGGI a/k/a [REDACTED] a/k/a [REDACTED], and ZACKARY AUSTIN a/k/a [REDACTED] a/k/a [REDACTED], defendants herein, knowingly accessed with intent to view, a computer disk and any other material that contained an image of child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), that has been mailed, and

shipped and transported using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

In violation of Title 18, United States Code, Section 2252A(a)(5)(B).

FORFEITURE ALLEGATION

28. Upon conviction for violating an offense involving a visual depiction described in Title 18, United States Code, Section 2252A, TIMOTHY DeFOGGI a/k/a [REDACTED] a/k/a [REDACTED] and ZACKARY AUSTIN a/k/a [REDACTED] a/k/a [REDACTED], defendants herein, shall forfeit to the United States any and all property constituting or derived from any proceeds the defendant obtained directly or indirectly as a result of the said violation; and any and all property used or intended to be used in any manner or part to commit and to promote the commission of the aforesaid to violation.

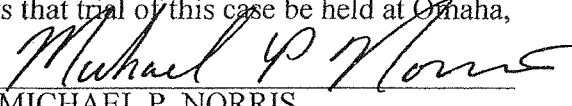
In violation of Title 18, United States Code, Section 2253.

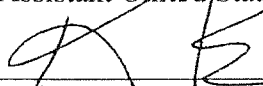
A TRUE BILL:

[REDACTED]
FOREPERSON


DEBORAH R. GILG
United States Attorney

The United States of America requests that trial of this case be held at Omaha, Nebraska, pursuant to the rules of this Court.


MICHAEL P. NORRIS
Assistant United States Attorney


KEITH A. BECKER
Trial Attorney